

HOUSE No. 3021

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to regulatory impact statements and administrative rulemaking.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael J. Rodrigues	8th Bristol
Richard T. Moore	Worcester and Norfolk
Barry R. Finegold	17th Essex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO REGULATORY IMPACT STATEMENTS AND ADMINISTRATIVE RULEMAKING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 1 of chapter 30A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out paragraph (6) and inserting in place thereof the following paragraph:-

(6) "Regulatory impact statement" means a statement by the promulgating authority which shall, to a reasonable degree of completeness: (i) identify the statutory change, problem, issue or deficiency addressed by the proposed regulation; (ii) identify specifically who is affected and to what extent by the proposed regulation; (iii) identify when such regulation becomes effective, when such regulation will be changed, if known, and how and when the regulation will be reviewed in the future, if at all; (iv) identify costs and/or benefits, including, without limitation, impacts on businesses and jobs in the commonwealth and the impact to the protection of natural resources and public health, if any. Any data, including written information or material, statistics, measurements, calculations or other information used as the basis for the regulation, including any such information provided to the agency by a consultant, vendor or other third party, shall be part of the record and available to the public upon request.

SECTION 2. Section 2 of said chapter 30A, as so appearing, is hereby further amended by inserting after the third paragraph the following paragraph:-

Every agency promulgating rules and regulations shall maintain a notification list of persons and groups who are interested in the agency's rulemaking and who request preliminary notification of agency rulemaking, with such request being renewed annually by said persons or groups. Not later than 30 days prior to the notice of a hearing described above, the agency conducting the hearing shall send a preliminary notification of agency rulemaking to each person or group who has requested preliminary notification of rulemaking and to the appropriate committee of the general court that has jurisdiction for the rule issuing agency, to the house and senate committees on ways and means and to the small business advisory council. The preliminary notification of

rulemaking shall: (a) identify the rule to be noticed for hearing and the scope of the proposed rule; (b) provide the statutory authority for such proposed rulemaking; (c) identify the person within the agency responsible for the rulemaking and who can be contacted for more information; and (d) state the purpose for proposing the new regulations or change of regulation and generally, the goal or goals to be obtained.

SECTION 3. Said section 2 of said chapter 30A, as so appearing, is hereby further amended by inserting after the fifth paragraph the following paragraph:-

Agencies may initiate emergency regulatory actions under relevant sections of this chapter without prior compliance with sections 1, 2, 3, and 5; provided, however that compliance shall be initiated as soon as practicable following the emergency action and, in any event, prior to making any emergency action permanent.

SECTION 4. Section 3 of said chapter 30A, as so appearing, is hereby further amended by inserting after the second paragraph the following paragraph:-

Every agency promulgating rules and regulations shall maintain a notification list of persons and groups interested in the agency's rulemaking and who request preliminary notification of agency rulemaking, with such request being renewed annually by said persons and groups. Not later than 30 days prior to the notice described above the agency shall send a preliminary notification of agency rulemaking to each person or group who has requested preliminary notification of agency rulemaking and to the appropriate committee of the general court that has jurisdiction for the rule issuing agency, to the house and senate committees on ways and means and to the small business advisory council. The preliminary notification shall: (a) identify the rule to be noticed and the scope of the proposed rule; (b) provide the statutory authority for such proposed rulemaking; (c) identify the person within the agency responsible for the rulemaking and who can be contacted for further information; and (d) state the purpose for proposing the new regulations or change of regulation and generally, the goal or goals to be obtained.

SECTION 5. Section 5 of said chapter 30A, as so appearing, is hereby amended by striking the first sentence of the second paragraph and inserting in place thereof the following:-

No rule or regulation so filed with the state secretary, except those filed for the purpose of setting rates, issuing grants or providing loans, and except those filed by the department of telecommunications and energy or the division of insurance, shall become effective until a regulatory impact statement has been completed, made public during the hearing process described above and is filed with the state secretary. The secretary of the enforcing agency shall review all regulatory impact statements prior to their filing with the state secretary to ensure and certify that a proper methodology and approach was used by the agency submitting said impact statement and to certify that the impact statement as submitted complies with the definition of "regulatory impact statement" as set forth in section 1 of chapter 30A within 90 days of receipt. In addition, no rule or regulation so filed, except those filed for the purpose of setting rates, issuing grants or providing loans, and except those filed by the department of telecommunications and energy or the division of insurance, shall become effective until the

64 promulgating agency has filed with the state secretary a statement verifying that said rule or
65 regulation does not conflict with, overlap or duplicate other agencies' rules or regulations.

66 SECTION 6. Section 8 of said chapter 30A is hereby amended by adding after the word
67 “regulations” at the end of said section 8 the following words: -

68 “provided, further, that said rulings shall have no precedential value nor shall they be binding on any
69 other parties or the agency issuing said rulings.”